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MONTANA LEGISLATIVE HISTORY

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H. Committee on Business & Economic Development			S. Committee on Business & Industry		
Hearing Date(s)	Mar 13	✓ C	Hearing Date(s)	Feb 21	✓ C
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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

Senate BILL NO. 323

INTRODUCED BY T. Burk

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE REQUIREMENT THAT ONLY LICENSED MOTOR VEHICLE DEALERS MAY OFFER, SOLICIT, OR ADVERTISE THE SALE OF MOTOR VEHICLES; PROVIDING A NUMERICAL QUALIFICATION OF VEHICLE SALES FOR PERSONS ACTING AS DEALERS OF MOTOR VEHICLES; PROVIDING FOR THE LICENSING OF WHOLESALER OPERATIONS; CLARIFYING ASSIGNMENT OF RECREATIONAL VEHICLE DEALER LICENSE PLATES FOR A LICENSED RECREATIONAL VEHICLE DEALER; PROVIDING QUALIFICATIONS FOR A LICENSEE'S ESTABLISHED PLACE OF BUSINESS; INCREASING THE DOLLAR AMOUNT OF LICENSEES' SURETY BONDS; SETTING FORTH A FEE STRUCTURE AND PROVISIONS RELATED TO LICENSED WHOLESALERS; AMENDING THE DEPARTMENTAL BASIS FOR DENIAL AND REVOCATION OF DEALER AND WHOLESALER LICENSES; PROVIDING AUTHORIZATION FOR OFF-PREMISES SALES BY LICENSED MOTOR VEHICLE DEALERSHIPS; REQUIRING LICENSED MOTOR VEHICLE DEALER AND WHOLESALER RECORDS TO BE KEPT UPON CERTAIN PREMISES; PROVIDING FOR TRANSFER OF LICENSE FOR LICENSED WHOLESALERS; PROVIDING THE DEPARTMENT OF JUSTICE WITH AUTHORITY TO REVOKE A LICENSED MOTOR VEHICLE DEALER'S 20-DAY PERMIT PRIVILEGES; PROVIDING FOR THE LICENSING AND REGULATION OF AUTO AUCTIONS DEALING IN MOTOR VEHICLES; AND AMENDING SECTIONS 61-1-314, 61-4-101, 61-4-102, 61-4-103, 61-4-104, 61-4-105, 61-4-106, AND 61-4-119, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-1-314, MCA, is amended to read:

"61-1-314. Dealer. (1) "Dealer" means any:

(a) a person, firm, association, or corporation which, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or acting as a broker of either new or used motor vehicles, or both, and who qualifies for issuance of a dealer's license under 61-4-101 through 61-4-105; or

(b) an owner of real property who allows more than three new or used motor vehicles not titled in the property owner's name to be offered for sale on the property during 1 calendar year unless the property is leased to a motor vehicle dealer licensed under 61-4-101 and the vehicles offered for sale are bona fide units of the licensed dealer's inventory.

(2) The term "dealer" does not include the following:

(a) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(b) employees of such the persons included in subsection (2)(a) when engaged in the specific performance

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of their duties as ~~such~~ employees; or

(c) public officers while performing or in the operation of their duties.

(3) A dealer dealing in used motor vehicles only shall purchase a Montana store license."

Section 2. Section 61-4-101, MCA, is amended to read:

"61-4-101. Application for dealer's license or wholesaler's license. (1) (a) ~~Every~~ A verified application must be filed, by mail or otherwise, in the office of the department by each person, firm, corporation, or association ~~which~~ that, for commission or profit, engages in:

(i) the business of buying, selling, exchanging, ~~offering,~~ taking for consignment, ~~soliciting, advertising the sale of,~~ or acting as a broker of new motor vehicles, recreational vehicles, used motor vehicles, trailers (except trailers having an unloaded weight of less than 500 pounds), semitrailers, or special mobile equipment as defined in 61-1-104 ~~shall file, by mail or otherwise, in the office of the department a verified application~~ for licensure as a dealer, ~~on a blank to be furnished by the department for that purpose and containing the information required~~; or

(ii) business as a wholesaler as defined in [section 9] in order to be licensed as a wholesaler.

(b) The sale of more than three motor vehicles or the offering for sale of more than three motor vehicles, if the

motor vehicles are not titled in the seller's name, in any 1 calendar year is prima facie evidence that a person is engaged in the business of dealing motor vehicles. Licensed wholesalers do not have the privilege of the use of dealer license plates as provided in subsection (2)(b) but are authorized to display and use demonstrator plates under the provisions of 61-4-102(2)(a)(ii). ~~The~~

(c) Each license application and all of the information contained in it must be verified by the Montana highway patrol or an authorized representative of the department on a form to be furnished by the department for that purpose and must contain the information required. Each application must be accompanied by the license fee specified in 61-4-102. A dealer's or wholesaler's license must be renewed and paid for annually, and an application for relicensure must be filed not later than January 1 of each year. If an application for renewal of a license has been received by the department prior to the expiration of the license, the ~~dealer~~ licensee may operate his business and display dealer or demonstrator plates under the expired license between January 1 and February 15 following expiration.

(2) To qualify for licensure and the issuance and use of "D", "UD", "RV", "DTR", or "MCD" plates as ~~hereinafter~~ provided in this subsection, the applicant must furnish the following information and qualify under the following

provisions:

(a) To qualify as a new motor vehicle dealer and for the use of "D" plates, the applicant must:

(i) state the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock of motor vehicles is displayed;

(ii) state the name and address of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(iii) state the name and make of all motor vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise or sales agreement;

(iv) execute a certificate to the effect that the applicant has a permanent building for the display and sale of new motor vehicles at the location of the premises where sales are conducted;

(v) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of motor vehicles; and

(vi) execute a certificate to the effect that the applicant is a bona fide dealer in new motor vehicles and that he is recognized by a manufacturer, importer, or

distributor as a dealer in new motor vehicles.

(b) To qualify as a used motor vehicle dealer and for the use of "UD" plates; ~~or~~ as a recreational vehicle~~,~~ dealer and for the use of "RV" plates; as a trailer, semitrailer, or special mobile equipment dealer and for the use of "DTR" plates; ~~or~~ as a motorcycle or quadricycle dealer and for the use of "MCD" plates~~,~~; or as a wholesaler and for the use of demonstrator plates, the applicant must, in addition to the matters set forth in subsections (i) and (ii) of subsection (2)(a) above, provide:

(i) a statement that the ~~dealer~~:

(A) applicant has ~~a building or lot and a sign readable at a minimum distance of 150 feet indicating the firm name as the principal place of business and that vehicles are offered for sale;~~ and an established place of business that includes a lot or lots upon which motor vehicles may be displayed and a permanent nonresidential building on or contiguous to the lot or lots where records are kept and sales are made; or

(B) wholesaler applicant has an established place of business that includes a permanent nonresidential building or office where records are kept in order that those records may be inspected;

(ii) a certificate to the effect that the applicant is a bona fide dealer or wholesaler in used motor vehicles,

recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, or quadricycles. An applicant for a recreational vehicle dealer license must also indicate on the same certificate that he is recognized by a manufacturer, importer, or distributor as a dealer in recreational vehicles.

(c) If two or more vehicle dealer or wholesaler businesses share a location, all records, office facilities, and inventory, if applicable, must be physically segregated and clearly identified. Each applicant's established place of business shall display a sign that indicates the firm name and that vehicles are offered for sale. The letters of the sign must be clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

~~(c)~~(d) To qualify for a used motor vehicle dealer's or wholesaler's license, a person must submit an annual application for that license and comply with the provisions of 61-4-102(5) in addition to fulfilling the requirements of subsection (2)(b).

~~(d)~~(e) The provisions of subsection ~~(2)(c)~~(2)(d) do not apply to an applicant who is licensed as a motor vehicle wrecking facility under the provisions of Title 75, chapter 10, part 5.

(3) (a) The applicant for a dealer's or wholesaler's license shall also file with his application ~~a good and~~

~~sufficient~~ bond ~~in the sum~~ of ~~$5,000,~~ ~~and the bond~~ $25,000 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a recreational vehicle dealer, a trailer dealer, or a wholesaler. However, applicants for a license as a trailer dealer or a trailer wholesaler shall file the $25,000 surety bond only if special mobile equipment, commercial trailers and semitrailers exceeding 6,000 pounds maximum gross loaded weight, mobile homes, or house trailers are sold; otherwise, all other trailer dealer, motorcycle dealer, or wholesaler license applicants shall file a bond in the sum of $10,000. All bonds must be conditioned that the applicant shall conduct his business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(b) A person who suffers loss or damage due to the unlawful conduct of a dealer or wholesaler licensed under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the ~~judgment from the department~~ bond. ~~The department is responsible for payment under this section, in an amount not to exceed the maximum bond amount, only if the judgment on which the payment is based determines~~ must determine a specific loss or damage amount and ~~concludes~~ conclude that the ~~dealer's~~ licensee's unlawful operation caused the loss or damage

before payment on the bond is required."

Section 3. Section 61-4-102, MCA, is amended to read:

"61-4-102. Fees -- restrictions on licensees. (1) Upon making such application, the applicant shall pay to the department, in addition to the fees required of dealers and wholesalers under the provisions of subsection (2), a fee of $5. Upon receipt of the application, fee, and bond, as provided above, the department shall examine the application, and may, prior to issuing a license, make individual investigation of the truth of the statements contained in the application. If the department is satisfied that the applicant qualifies for the issuance of a ~~dealer's~~ license under the provisions of this chapter, ~~it~~ the department may ~~thereupon~~ issue the ~~same~~ license. The department may refuse, after investigation, to issue a license to an applicant as allowed by law.

(2) Registration or license fees shall be paid upon registration or reregistration of dealers in motor vehicles, recreational vehicles, or trailers as follows:

(a) (i) all dealers in motor vehicles and recreational vehicles, a fee of $25, which shall entitle such dealer to one set of number plates, and $25 additional fee for each additional set of number plates, subject to the following limitations on the number of additional sets allowed a dealer:

(A) 5% of the first 100 vehicle sales for the previous year; plus

(B) 3% of the next 100 vehicle sales for the previous year; plus

(C) 2% of vehicle sales in excess of 200 for the previous year; and

(D) any additional sets upon a showing of good cause by the applicant dealer to the department.

(ii) in addition to the dealer plates allowed under subsection (2)(a)(i), a dealer who has purchased one or more sets of dealer plates or a licensed wholesaler is entitled to purchase demonstrator plates at a cost determined by the department to offset the cost of production. Demonstrator plates ~~shall~~ must be used in lieu of a dealer plate but only as set forth in subsection (6) and must be distinguished from dealer plates in a manner determined by the department. Wholesaler demonstrator plates must be distinguished from dealer demonstrator plates in a manner determined by the department.

(b) dealers in motorcycles, quadricycles, and trailers, including housetrailers, $45~~.~~; and

(c) wholesalers in used motor vehicles, recreational vehicles, trailers (including semitrailers and special mobile equipment), and motorcycles (including quadricycles), $30.

(3) If ~~any~~ a dealer or wholesaler is originally registered 6 months after the time of registration as set by law, the registration or license fee for the remainder of ~~such~~ the year ~~shall be~~ is one-half of the regular fee above given.

(4) A dealer or wholesaler in motor vehicles, recreational vehicles, or trailers who ~~shall maintain~~ maintains more than one place of business or who ~~shall maintain any~~ maintains a branch establishment or establishments ~~must~~ shall register and pay a registration or license fee for each ~~such~~ place of business or establishment. A dealer may sell vehicles only from his licensed place of business unless the dealer notifies the department 10 days in advance, on a form prescribed by the department, of the opening date and location of an off-premises sale. An off-premises sale must be conducted within the city limits of the city of the dealer's licensed location or upon an adjacent off-premises site that is approved by the department and that is within the county of the dealer's licensed location. The sale may not exceed 6 consecutive business days, and a licensed dealer may not conduct more than five off-premises sales during any 1 calendar year.

(5) A new applicant for a used motor vehicle dealer or wholesaler license shall pay $300 to the department in

addition to any other sums required by this section or other provisions of the law. An applicant for a renewal of a used motor vehicle dealer or wholesaler license shall certify under oath that he has sold more than five used motor vehicles during the preceding calendar year or pay an additional $300 before he may be licensed.

(6) Demonstrator plates provided for in subsection (2)(a)(ii) may be used only as follows:

(a) New and used motor vehicle or recreational vehicle demonstrator plates may be used:

(i) to demonstrate, for no more than 72 hours, an authorized vehicle held for sale, when operated by an individual holding a valid operator's license;

(ii) on authorized vehicles owned by the firm when operated by an officer or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer's or wholesaler's own tools, parts, and equipment;

(iii) on authorized vehicles being tested for repair;

(iv) on authorized vehicles being moved to or from a dealer's place of business for sale;

(v) on authorized vehicles being moved to or from service and repair facilities before sale;

(vi) on authorized vehicles being moved to or from exhibitions within the state, provided any such exhibition does not exceed a period of 20 days.

(b) Mobile home and trailer dealer demonstrator plates may be used:

(i) on units hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer;

(ii) on mobile homes hauled to a customer's location for setup after sale;

(iii) on travel trailers held for sale to demonstrate the towing capability of the vehicle provided that a dated demonstration permit, valid for not more than 72 hours. is carried with the vehicle at all times;

(iv) on any motor vehicle owned by the dealer that is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer owning any such motor vehicle;

(v) on vehicles being moved to or from vehicle exhibitions within the state, provided any such exhibition does not exceed a period of 20 days."

Section 4. Section 61-4-103, MCA, is amended to read:

"61-4-103. **Assignment** of dealer plates. (1) Upon the licensing of a dealer as a new motor vehicle dealer, used motor vehicle dealer, recreational vehicle dealer, or trailer, semitrailer, or special mobile equipment dealer, or a dealer of the motorcycle- or quadricycle-type vehicle, the department shall assign to ~~such~~ the dealer a distinctive

serial license number as a dealer and after payment of fees furnish every qualified dealer in motor vehicles with ~~such~~ sets of number plates as required according to need, which need ~~shall~~ must be justified by the dealer with the initial application for license and each renewal. Assigned number plates ~~shall~~ must be similar to number plates furnished to owners of motor vehicles but ~~shall~~ must bear ~~thereon~~, in addition to the serial number assigned ~~such~~ the dealer, the letter "D" if the dealer is authorized to sell new motor vehicles (including trucks and truck trailers); the letters "RV" if the dealer is authorized to sell recreational vehicles; the letters "UD" if the dealer is authorized to sell used motor vehicles (including used trucks and used truck trailers); the letters "DTR" if the dealer is authorized to sell trailers, semitrailers, or special mobile equipment (new or used); and the letters "MCD" if the dealer is authorized to sell vehicles of the motorcycle or quadricycle type (new or used).

(2) With the exception of a dealer authorized to sell new motor vehicles (including trucks and truck trailers) and to use the "D" plate or demonstrator plate, no a dealer or wholesaler authorized to transact business under the provisions of this section may not offer for sale or trade any vehicle described in this section except ~~such~~ the vehicles as that are authorized by the plates assigned to

him. If an applicant wishes to sell more than one type of vehicle, he shall make application for each separate authorization. No plate assigned to a dealer or wholesaler may be used on any vehicle other than the type described in this section. A wholesaler may not sell a motor vehicle to a person who is not a licensed dealer. A dealer authorized to sell new motor vehicles and assigned a "D" plate or demonstrator plate is authorized to sell both new and used motor vehicles (including trucks and truck trailers), and ~~such~~ the plates may be displayed on either new or used motor vehicles by a licensed dealer in new vehicles.

(3) The department shall cause to be placed on each set of license plates issued to a dealer a serial number assigned to each dealer and the actual number of license plates issued to each dealer. The number of the dealer ~~shall~~ must follow the prefix of the county, and the number of plates issued the dealer ~~shall~~ must follow the prefix of the county and the number of the dealer, the dealer's number to be separated from the county prefix by a dash, and the number of plates issued to a dealer to be separated from the dealer's number by a dash, as follows: dealer number 4 in Lewis and Clark County would be numbered 5-4, and if the dealer were issued three sets of plates, they would be numbered consecutively as follows, 5-4-1, 5-4-2, and 5-4-3. Wholesalers who receive demonstrator plates under this part

must be issued license plates that are of a similar sequence to dealer and dealer demonstrator plates and display a "wholesaler" or "wholesale dealer" identifier conspicuously displayed upon the plates.

(4) Dealers properly licensed under this section are authorized to use and display dealer's license plates on ~~any~~ a motor vehicle held for bona fide sale or used in the conduct of the dealer's business in selling or demonstrating motor vehicles and operated by or under the control of the dealer, his officers or employees. For purposes of this provision, "officers and employees" include only ~~such~~ the persons listed on the manufacturer's franchise agreement or the importer's distribution agreement and their spouses or such other persons upon whom the dealer has paid social security taxes as a full-time employee. ~~No~~ A dealer's or wholesaler's license plate ~~shall~~ may not be used or displayed on vehicles normally used for hire, lease, or rental or for purposes not incident to the business of a motor vehicle dealer. ~~Each~~ A dealer is accountable for each plate issued and shall certify quarterly to the department the disposition of each dealer plate assigned to the dealer, including the name, address, and occupation of the person primarily using each plate.

(5) When the department has reasonable cause to believe, from an investigation made by it or information

furnished to it by the sheriff or any other law enforcement officer, that ~~any--such~~ a dealer or wholesaler has been improperly licensed, has used the dealer's license in a manner other than the one ~~herein~~ authorized in this section, ~~or~~ has provided a material misstatement of fact in an application for a license, is not qualified as a dealer or wholesaler under the requirements of this section, or whose criminal conduct renders him unfit for licensure, the department may revoke ~~such~~ the dealer's or wholesaler's license. ~~No~~ A person, firm, corporation, or association ~~shall~~ may not, for commission or profit, engage in the business of buying, selling, exchanging, or acting as a broker of new motor vehicles, trailers, or semitrailers unless duly licensed in compliance with this section (except trailers having an unladen weight of less than 500 pounds)."

Section 5. Section 61-4-104, MCA, is amended to read:

"61-4-104. Record of purchase or sale. ~~Every~~ A dealer or wholesaler licensed under 61-4-101 shall keep a book or record of the purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles and a description of ~~such~~ the vehicles, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom each vehicle was purchased or received or to whom it was sold or delivered, as the case may be. The description in the case of motor vehicles ~~shall~~ must also

include the engine number, if any, maker's number, if any, chassis number, if any, and ~~such~~ other numbers or identification marks ~~as~~ that appear ~~thereon~~ on the motor vehicle and ~~shall~~ must include a statement that a number has been obliterated, defaced, or changed if such is the fact. In the case of a trailer, semitrailer, or special mobile equipment, the record ~~shall~~ must include the manufacturer's number and ~~such~~ other numbers or identification marks ~~as~~ that appear thereon. The dealer ~~shall~~ or wholesaler must also have in his possession, from the time the motor vehicle is delivered to him until it has been disposed of by him, a duly assigned certificate of ownership from the owner of the motor vehicle to the dealer or wholesaler ~~from the time the motor vehicle is delivered to him until it has been disposed of by him~~. It is a violation of this part for a dealer or wholesaler to fail to take assignment of all certificates of ownership or manufacturer's certificates of origin for vehicles acquired by the licensee or to fail to assign the certificate of ownership or manufacturer's certificate of origin for vehicles sold. All records required to be kept in accordance with this section, in addition to the required retention of odometer disclosure information under 61-3-206(4), must be physically located and maintained within the building referred to in 61-4-101(2)(b)(i). An authorized representative of the department, upon

presentation of his credentials, may inspect and have access to and copy any records required under this chapter."

Section 6. Section 61-4-105, MCA, is amended to read:

"**61-4-105. Criminal penalty -- civil penalty imposed by agency.** (1) Any person violating the provisions of 61-4-101 through 61-4-104 or [section 10] is guilty of a misdemeanor and subject to a fine of not less than $250 and not more than $500. For the purposes of this section, every sale of a motor vehicle in violation of the provisions of 61-4-101 through 61-4-104 or [section 10] is a separate offense.

(2) In addition to all other penalties created by this part, the department is authorized to take appropriate enforcement action on its own initiative. Any person violating the provisions of 61-4-101 through 61-4-104 or [section 10] may be subject to administrative action, in accordance with the contested case procedures of Title 2, chapter 4, as follows:

(a) a civil penalty not to exceed $200 for each violation;

(b) suspension of the motor vehicle dealer, wholesaler, or auto auction license not to exceed 5 working days;

(c) revocation or denial of the motor vehicle dealer, wholesaler, or auto auction license; or

(d) any combination of subsections (2)(a) through (2)(c)."

Section 7. Section 61-4-106, MCA, is amended to read:

"**61-4-106. Transfer of license.** A registered dealer or wholesaler, who ~~may sell or dispose~~ sells or disposes of his entire business to ~~any other~~ another person, may have his certificate of registration transferred to ~~such~~ the purchaser upon filing with the department a statement containing the name of the registered dealer or wholesaler, the number under which ~~such dealer~~ the business is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of ~~such~~ the statement, accompanied by a filing fee of $2, the department shall note upon the registration record of ~~such~~ the dealer or wholesaler the change of ownership. ~~But no~~ A certificate of registration ~~can~~ may not be transferred unless the entire business of the dealer or wholesaler holding ~~such~~ the certificate of registration ~~be~~ is sold and disposed of, and ~~no such~~ a certificate of registration ~~can~~ may not be transferred to any person other than the purchasers of ~~such~~ the business."

Section 8. Section 61-4-119, MCA, is amended to read:

"**61-4-119. Penalty.** ~~Any~~ A person violating ~~the provisions~~ a provision of 61-4-111 or 61-4-112 is guilty of a misdemeanor and subject to a fine of not less than ~~$25~~ $250 and not more than ~~$100~~ $500. Every violation of 61-4-111 and 61-4-112 is considered a separate offense."

NEW SECTION. Section 9. **Wholesaler.** "Wholesaler" means a person, firm, partnership, association, or corporation who for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, recreational vehicle, trailer, semitrailer, special mobile equipment, motorcycle, or quadricycle only to motor vehicle dealers and auto auctions licensed under this part.

NEW SECTION. Section 10. **Application for auto auction license -- general regulations.** (1) A person, firm, association, or corporation that takes possession of a motor vehicle owned by another person through consignment, bailment, or any other arrangement for the purpose of selling the motor vehicle to the highest bidder when all buyers are licensed motor vehicle dealers, wholesalers, or wrecking facilities shall file by mail or otherwise in the office of the department a verified application for licensure as an auto auction. The application must be made in the following manner:

(a) Each application and all of the information contained in it must be verified by the Montana highway patrol or an authorized representative of the department on a form to be furnished by the department for that purpose. The application must provide the following information:

(i) the name in which the business is to be conducted and the location of premises (street address, city, county, and state) where records are kept, sales are made, and motor vehicle stock is displayed as an established place of business that displays a sign indicating the firm name and that vehicles are offered for sale. The letters on the sign must be clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

(ii) the name and address of all owners or persons having an interest in the business. In the case of a corporation, the names and addresses of the president and secretary are sufficient.

(iii) a statement that the applicant is authorized to auction used motor vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, and quadricycles under one license. A licensed auto auction may not auction a new motor vehicle except when authorized by a new motor vehicle manufacturer, importer, distributor, or representative thereof, for the purpose of conducting a closed-factory fleet sale to dispose of new motor vehicles by the franchisor (manufacturer, distributor, or importer) to franchisee purchasers when the purchasers are licensed new motor vehicle dealers purchasing new motor vehicle line-makes authorized by their respective franchise, sales, or distributor agreements. An auto auction licensed

under the provisions of this section shall notify and update the department with current fleet sale agreements between the auto auction and franchisor. An auto auction may not conduct a factory fleet sale unless authorized or appointed by a franchisor licensed under part 2 of this chapter.

(b) Each application must be accompanied by a bond of $25,000 and must be conditioned that the applicant shall conduct his business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually. A person who suffers loss or damage due to the unlawful conduct of an auto auction licensed under this section may proceed in the same manner as provided for licensed dealers and wholesalers in 61-4-101(3)(b).

(2) An auto auction's license must be renewed and paid for annually to the department, and an application for relicensure must be filed by January 1 of each year. The fee required for each first-time applicant is $500 and for subsequent renewal applications is $100 each year. Upon receipt of a properly completed application, fee, and bond, the department shall issue the auto auction license and assign an auto auction license number for each applicant in a manner determined by the department. Auto auctions dealing in motor vehicles may sell only to licensed dealers and wholesalers.

(3) Auto auctions that are licensed under this section and that hold a current license number may issue temporary permits, which may be displayed and used by a buyer to operate an unregistered vehicle purchased from the auto auction. The temporary permit is valid for a period of 72 hours from the time of purchase and may be used only for the purpose of driving or transporting a vehicle from the auction premises to the purchaser's established place of business or point of destination. Temporary permits must be on a form prescribed by the department and must contain the name, address, and license number of the purchaser, date of sale, name, address, license number, authorized signature of the auto auction, and a description of the vehicle, including its serial number. The department shall collect a fee of $10 from the auto auction for each temporary permit, and the auto auction may charge a vehicle purchaser no more than $10 for the issuance of each permit to offset the cost of the permits. It is unlawful for the auto auction to issue more than one temporary permit per vehicle sale.

(4) A licensed auto auction may apply for and may be authorized by the department to purchase and use license plates of a type and amount approved by the department, upon payment of a fee to the department to offset the cost of production. Licensed auto auctions may use the license plates to transport inventory vehicles from a point of

storage or a point of delivery in this state to the auto auction's place of business, for road testing authorized vehicles, or for moving vehicles for purposes of repairing, painting, upholstering, polishing, and related activities. One license plate is required to be conspicuously displayed on the rear of the vehicle. Auto auctions may appoint designated persons, partnerships, corporations, service stations, or repair garages to use the license plate only when conducting work for the auto auction involving repairing, painting, upholstering, polishing, or performing of similar types of work upon a vehicle. Upon application for an auto auction license, the applicant, if requesting the license plates, shall submit a sworn affidavit on a form prescribed by the department, listing each authorized person designated by the auction to use the license plates. The auto auction is responsible for reporting any changes to the affidavit within 72 hours after the amendment has occurred. An auto auction licensed under the provisions of this section is liable for the proper use of the license plates, which may not be used for private purposes. The department may revoke an auto auction's 72-hour temporary permit and license plate privileges if an auction issues, authorizes the use of, or uses a temporary permit or the license plate in violation of the provisions of this section.

(5) (a) Each auto auction shall keep a book or record,

in a form and manner subject to approval by the department, of the purchases, sales, or exchanges or the receipts for the purpose of sale of any motor vehicle, a properly completed copy of a temporary permit issued to a vehicle purchaser, the date of title transfer, and a description of the motor vehicle, together with the name and address of the seller, the purchaser, and the alleged owner or other person from whom the motor vehicle was purchased or received or to whom it was sold or delivered. The description in the case of a motor vehicle must include:

(i) the identification number or engine number, if any;

(ii) other numbers or identification marks on the motor vehicle; and

(iii) a statement that a number has been obliterated, defaced, or changed, if it has.

(b) An auto auction licensed under this section shall validate the sale of a motor vehicle through its auction by stamping its name and license number upon the certificate of ownership at a location on the front or back of the certificate, at the margin in the assignment section as executed between the transferor and transferee. An auto auction's stamp must be legible and may not interfere with the information recorded on the certificate between transferor and transferee. If the certificate of ownership lacks adequate space for the auto auction to place its

stamp, the auction may provide the transferee a copy of auction invoice bearing the name and license number of the auction, along with an indication of the vehicle year, make, model, and identification number; name, address, and signature of transferor; name, license number, and signature of transferee; and the date the vehicle was sold through the auction.

(c) The invoice must be attached to the certificate of ownership and must be presented to the department with any application for title.

(d) An auto auction shall retain, for 5 years, odometer disclosure information, including the name of the owner on the date the auto auction took possession of the motor vehicle, the name of the buyer, the vehicle identification number, and the odometer reading on the date the auto auction took possession of the motor vehicle. The odometer information may be retained in any way that is systematically retrievable and is not required to be maintained on any special disclosure form. The information may be part of the auction receipt or invoice or be maintained as a portion of a computer data base or manual file. An auto auction that executes a transfer of ownership as an agent on behalf of a seller or buyer is liable for providing an odometer disclosure statement for the seller or an odometer disclosure acknowledgement for the buyer under

the provisions of 61-3-206.

NEW SECTION. Section 11. **Twenty-day permit limitation on issuance -- violation -- penalty.** (1) A dealer may not issue more than one 20-day permit under 61-4-111 or 61-4-112 per vehicle sale.

(2) A dealer who violates the provisions of subsection (1) is subject to revocation of the privilege to issue 20-day permits for a period of time determined by the department.

NEW SECTION. Section 12. **Code commissioner instruction.** Unless the context clearly requires otherwise, the code commissioner shall change "dealer" to read "dealer and wholesaler" or "dealer or wholesaler", as the usage requires, in 61-1-117, 61-2-405, 61-3-206, 61-3-508, 61-4-205, and 61-10-214.

NEW SECTION. Section 13. **Codification instruction.** (1) [Section 9] is intended to be codified as an integral part of Title 61, chapter 1, part 3, and the provisions of Title 61, chapter 1, part 3, apply to [section 9].

(2) [Sections 10 and 11] are intended to be codified as an integral part of Title 61, chapter 4, part 1, and the provisions of Title 61, chapter 4, part 1, apply to [sections 10 and 11].

-End-

2/19	HEARING		
2/19	FISCAL NOTE PRINTED		
2/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	2ND READING PASSED	49	0
2/26	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO JUDICIARY		
3/14	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/20	2ND READING CONCURRED AS AMENDED	84	14
3/21	3RD READING CONCURRED	86	13
	RETURNED TO SENATE WITH AMENDMENTS		
3/28	2ND READING AMENDMENTS CONCURRED	49	0
4/01	3RD READING AMENDMENTS CONCURRED	48	0
4/04	SIGNED BY PRESIDENT		
4/04	SIGNED BY SPEAKER		
4/05	TRANSMITTED TO GOVERNOR		
4/09	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 397	EFFECTIVE DATE: 7/01/91	

SB 322 INTRODUCED BY FRITZ, ET AL.
EXEMPT NONPROFIT GROUP TRANSPORTING ELDERLY/ HANDICAPPED FROM CARRIER LAWS

2/08	INTRODUCED		
2/08	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/08	FIRST READING		
2/19	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	2ND READING PASSED	49	0
2/25	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/15	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED		
3/20	2ND READING CONCURRED	97	1
3/21	3RD READING CONCURRED	97	2
	RETURNED TO SENATE		
3/27	SIGNED BY SPEAKER		
3/28	SIGNED BY PRESIDENT		
3/28	TRANSMITTED TO GOVERNOR		
4/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 322	EFFECTIVE DATE: 10/01/91	

SB 323 INTRODUCED BY T. BECK
REVISING MOTOR VEHICLE DEALER LAW
BY REQUEST OF DEPARTMENT OF JUSTICE

2/08	INTRODUCED		
2/08	REFERRED TO BUSINESS & INDUSTRY		
2/09	FIRST READING		
2/09	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE PRINTED		
2/15	FISCAL NOTE RECEIVED		
2/21	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	2ND READING PASSED	47	2
2/25	3RD READING PASSED	47	2
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		

3/04	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
3/13	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED		
3/18	2ND READING CONCURRED AS AMENDED	89	2
3/19	3RD READING CONCURRED	94	5
	RETURNED TO SENATE WITH AMENDMENTS		
3/23	2ND READING AMENDMENTS CONCURRED	47	0
3/25	3RD READING AMENDMENTS CONCURRED	47	0
4/02	SIGNED BY PRESIDENT		
4/03	SIGNED BY SPEAKER		
4/04	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 383	EFFECTIVE DATE: 10/01/91	

SB 324 INTRODUCED BY WILLIAMS

PROHIBIT COLLISION DAMAGE WAIVERS IN AUTOMOBILE RENTAL AGREEMENTS

2/08	INTRODUCED		
2/08	REFERRED TO BUSINESS & INDUSTRY		
2/09	FIRST READING		
2/18	HEARING		
2/22	COMMITTEE REPORT—BILL NOT PASSED		
2/22	ADVERSE COMMITTEE REPORT ADOPTED	44	5
2/23	RECONSIDERED ADOPTION OF ADVERSE COMMITTEE REPORT	34	15
2/25	2ND READING DO PASS MOTION FAILED	8	41
2/25	2ND READING INDEFINITELY POSTPONED	42	7

SB 325 INTRODUCED BY FRITZ, ET AL.

PROVIDE FOR ELECTION DAY VOTER REGISTRATION

2/08	INTRODUCED
2/08	REFERRED TO STATE ADMINISTRATION
2/09	FIRST READING
2/09	FISCAL NOTE REQUESTED
2/15	FISCAL NOTE RECEIVED
2/16	FISCAL NOTE PRINTED
2/18	HEARING
2/22	TABLED IN COMMITTEE

SB 326 INTRODUCED BY WATERMAN, ET AL.

EXPAND MEMBERSHIP OF THE BOARDS OF REGIONAL MENTAL HEALTH CORPORATIONS

BY REQUEST OF DEPARTMENT OF INSTITUTIONS

2/08	INTRODUCED		
2/08	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/09	FIRST READING		
2/09	FISCAL NOTE REQUESTED		
2/13	FISCAL NOTE RECEIVED		
2/14	FISCAL NOTE PRINTED		
2/15	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/19	2ND READING PASSED	47	3
2/20	3RD READING PASSED	39	10
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO HUMAN SERVICES & AGING		
3/21	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/06	2ND READING CONCURRED	90	4
4/06	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY		

adequate, reliable funding to carry out the commissions.

Proponents' Testimony:

Dave Barnhill, deputy insurance commissioner representing Andy Bennett, state auditor and commissioner of insurance, spoke in favor of the bill (See Exhibit 1, Exhibit 1A, and Exhibit 1B).

Roger McGlenn, executive director of the independent insurance agents association of Montana, stated that in 1987 there was fees charged to the insurance agents and insurance companies to provide actuaral services requested either by the department or the legislature. There was one strong concern, if these fees were increased they would be appropriated and spent for the purpose that was intended. After 1987 a significant amount of those fees were not appropriated for the services that were outlined. There were not enough funds appropriated to find an actuary in the market place. Because of the lack of staffing and funding, combined with increased responsibilities, because of the changes in the market place and legislation, this problem has increased rather than declined over the years. The department is often forced into a crises management situation.

Larry Akey, representing the Montana association of life underwriters, stated that if we don't have adequate regulation and enforcement of insurance in this state, it hurts the agents of the state, and it hurts the insurance consumers of the state. Without adequate staffing and funding for the commissioner's office, it doesn't matter how good the laws are or the rules are. SB 380 is a way to ensure that the commissioner's office does have adequate staffing and funding to discharge the duties that this legislature has imposed upon them.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Hager asked about the fiscal note. It indicates that there is no money coming out of the general fund at the present time to fund the insurance companies.

Dave Barnhill stated that the fees collected are deposited into the general fund in the amount to about one million three thousand dollars.

Senator Lynch commented that the only opponents to this bill would be the members of the legislature.

Closing by Sponsor:

Senator Rye stated that this bill was requested by the commissioner of insurance who is also the state auditor.

Presentation and Opening Statement by Sponsor:

Senator Tom Beck, sponsor of the bill, stated that this bill was requested by the department of justice. This bill is to define what an automobile dealer is, it increases the bond on automobile dealers from five thousand to twenty five thousand, and it puts a license and control on automobile wholesalers or auto auctions.

Proponents' Testimony:

Daryll (Bud) Schoen, chief, registrar's bureau motor vehicle division department of justice, spoke in favor of the bill (See Exhibit 2).

Peter Funk, representing the attorney general's office, suggested a minor amendment to page 11 of the bill, the paragraph beginning on line 12 reading through line 23, which concerns off premises sales. The language as proposed in the bill would restrict those sales to a very limited area in which the dealer is licensed and operates. The recreational vehicle dealers of the state have a different situation than the car dealers in that they are licensed to operation in a larger geographical area than the sales of vehicles. The amendment would accept the RV dealers from the requirements from the sentence that begins on line 16, they would insert "except for off premise sales conducted by RV dealers". The other minor change is on the same lines 20-23, as proposed, the bill would restrict the off premisses sales to six consecutive business days, and no more than five off premises sales during the year. They would simply propose that both of those figures would be amended to ten.

Mark _____, a recreational dealer in Missoula, and representing the Montana management housing and RV association in Helena, stated that this is a good cleanup bill, and they support both the bill and the amendments proposed.

Steve Turkiewicz, executive vice president of the Montana auto dealers association, stated that they are in support of the bill and the amendments that have been proposed.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Kennedy asked if a dealer can be a wholesaler, and a wholesaler be a dealer.

Bud Schoen replied that a dealer can wholesale vehicles, a wholesaler has to become a licensed car dealer in order to legally sell vehicles.

Senator Williams asked how they got along before without this bill.

Bud Schoen replied that the primary purpose of the bill, the biggest problem that they are having with the wholesalers and auto auctions that are really not adequately licensed.

Senator Williams asked about page 11, the amendment is being made to satisfy the RV people. Why was it put in there to start with.

Bud Schoen replied that they thought that all dealers were more or less the same. RV dealers are unique in that they conduct a lot of their sales off premises.

Senator Hager asked about the bond being raised from five thousand to twenty five thousand, have they thought of making a sliding bond based on the load of business.

Bud Schoen replied that they haven't, but something could be considered.

Senator Gage asked how many bonds are called on in a year.

Bud Schoen replied no more than three or four a year.

Closing by Sponsor:

Senator Tom Beck stated that he isn't sure why there was such a hold up on this bill. There is some good things in this bill that are really needed by not only auto dealers, but by the department of justice and the motor vehicle division. Senator Hager had a good idea on the volume of business.

HEARING ON SENATE BILL 360

Presentation and Opening Statement by Sponsor:

Senator Del Gage, sponsor of the bill, stated that this bill is regarding confidentiality of information of pere review. If there is information at those reviews that could be obtained outside of those reviews, those would not be subject to confidentiality.

Proponents' Testimony:

David Johnson, a CPA in Helena and also the chairman of the legislative committee of the Montana society of CPA's serving on the pier review committee in the American institute of CPA's. The pere review process which started in 1979 was voluntary for a number of years, now it is a mandatory process. The purpose of this law is to ensure that candid communications take place between the firm being interviewed and the review team. The passage of this law would facilitate this.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Thayer asked if this relieves CPA's or accountants

EXECUTIVE ACTION ON SENATE BILL 323

Motion:

Senator Kennedy moved to amend SB 323.
Senator Thayer moved to do pass SB 323 as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The amendments to SB 323 passed unanimously.

Recommendation and Vote:

SB 323 passed with amendments by 8 to 1 votes.

EXECUTIVE ACTION ON SENATE BILL 380

Motion:

Senator Noble moved that SB 380 do not pass.

Discussion:

Senator Hager mentioned that the fiscal note states that there is a thirteen one point three million hit on the general fund, because there is nine hundred thousand dollars coming out of the general fund, so there is actually four hundred thousand dollars coming out of there.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion to do not pass SB 380 passed 8 to 1 votes.

EXECUTIVE ACTION ON SENATE BILL 47

Motion:

Senator Gage moved to table SB 47.

Discussion:

ROLL CALL

B & I COMMITTEE

DATE 2/21/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
BRUSKI	X		
FRANKLIN	X		
GAGE	X		
NOBLE	X		
HAGER	X		
THAYER	X		
WILLIAMS	X		
KENNEDY	X		
LYNCH	X		

Each day attach to minutes.

Section 2. Page 6, Lines 7 and 8 - Authorizes the use of demonstrator plates by licensed wholesalers.

Page 6, Lines 15 through 23 - Requires a motor vehicle dealer to have a lot where vehicles are displayed and a building where records are kept. A wholesaler is not required to have a lot but must have a non-residential building or office where records are kept.

Page 7, Lines 7 through 14 - If two or more dealers or wholesalers share a location their records, office facilities and inventory must be kept separated. Each must display a sign readable from a minimum distance of 150 feet.

Page 8, Lines 1 through 11 - Increases the amount of a dealer bond from $5,000 to $25,000 for new vehicle dealers, used vehicle dealers and recreational vehicle dealers. The $25,000 bond also applies to trailer dealers who sell special mobile equipment, commercial trailers exceeding 6,000 GVW, mobile homes and house trailers. Trailer dealers who sell trailers not exceeding 6,000 GVW and motorcycle dealers shall file a bond in the amount of $10,000. Wholesalers of the same types of vehicles are also subject to the respective bond amounts.

Page 8, Subsection (b) beginning on Line 16 - Under current statutes a bond claimant who obtained a judgement against a dealer would collect the judgement from the state and the state would have to collect on the bond. The new language would enable the bond claimant to collect directly from the bonding company.

Section 3. Page 9, Line 14 through 16 - Added language that the department may refuse to issue a dealer or wholesaler license as allowed by law. Under current statutes it is questionable if the department can refuse a license even though an applicant may have been convicted of a previous motor vehicle related crime.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 2/21/91
BILL NO. SB 323

SENATE BILL 323 - STATEMENT

Prepared by: Daryll E. (Bud) Schoen, Chief
Registrar's Bureau
Motor Vehicle Division
Department of Justice

Date: February 20, 1991

Section 1. Page 2, Lines 13 through 19 - A person would be required to obtain a dealers license if they allowed more than three vehicles, not titled in their name, to be displayed and offered for sale on their property, unless the property was leased to a licensed dealer. (Reduce unlicensed sales on vacant lots.)

Section 2. Page 3, Lines 8 through 23 - Cleans up language and provides for the licensing of wholesalers.

Page 3, Lines 24 and 25 and Page 4, Lines 1 through 7 - Provides that a person may not sell more than three motor vehicles per year that are not titled in the seller's name without being licensed as a motor vehicle dealer or as a wholesaler. Also, licensed wholesalers are restricted to the use of demonstrator plates and shall not be issued dealer plates.

Page 4, Lines 10 through 12 - Authorizes a representative of the department of justice to verify information contained in a dealer or wholesaler license application. Under the current statutes only the highway patrol can verify this information.

Page 6, Lines 3 and 4 - Provides for the use of "RV" plates for recreational vehicle dealers. "RV" dealers were authorized in 1985 but the statute was not amended to include the use of "RV" plates.

Section 3. Page 10, Lines 11 through 25 - New language provides for the issuance of demonstrator plates to wholesalers which shall be distinguished from dealer demonstrator plates; and a license fee of $30 for wholesalers.

Page 11, Lines 12 through 23 - The new language allows a dealer to conduct off-premise sales 5 times a year by giving the department a 10-day notice. Sales are limited to 6 consecutive days. Current statutes do not allow off-premise sales.

Page 11, Beginning on Line 24 - New language in subsection (5) will require a new applicant for a wholesaler's license to pay $300 in addition to the license fee of $30. If the wholesaler has not sold more than 5 vehicles during the preceding year the $300 must be paid again to renew the wholesaler license.

Section 4. Page 15, Lines 5 and 6 - A wholesaler may sell vehicles only to licensed dealers. They cannot conduct retail sales.

Page 15, Line 25 and Page 16, Lines 1 through 4 - Wholesaler demonstrator plates shall be clearly marked to separate them from dealer plates.

Page 17, Lines 4 through 8 - Provides for clear violations of the dealer licensing laws which would be cause for revocation of a dealer or wholesaler license.

Section 5. Page 18, Lines 15 through 24 - When a dealer or a wholesaler receives a title from a customer the name of the dealer or wholesaler must be entered in the purchaser's section of the assignment. When the dealer or wholesaler sells a vehicle, their customer's name must be entered in the assignment section of the title. All records must be kept on file in the building at the location where the dealer or wholesaler is licensed.

Section 6. Page 19, Beginning on Line 4 - Adds wholesalers and auto auctions to the penalty provisions for violations of the sections covering applications for a license, applying for and the use of dealer/demonstrator plates and keeping records.

Section 7. Page 20, Beginning on Line 1 - Adds wholesalers as a licensee required to file a change of ownership with the department.

Section 8. Page 20, Lines 20 through 25 - Increases the penalty for dealer permit violations and failure to provide titling documents from a minimum of $25 to $250 and a maximum from $100 to $500.

Section 9. Page 21, Beginning on Line 1 - Defines a wholesaler. A wholesaler may sell only to dealers and auto auctions.

Section 10. Page 21, Beginning on Line 10 - General regulations providing for the licensing of auto auctions and restricting sales to licensed dealers, wholesalers and wrecking facilities. Licensing procedures and regulations governing the conduct of the business are similar to those required of motor vehicle dealers. Notable exceptions are as follows:

Page 22, Beginning on Line 13 - An auto auction may offer for sale all types of vehicles. They may offer new vehicles for sale only when authorized by a manufacturer, importer or distributor who holds a Montana Manufacturer's License. New vehicles may be sold only to new motor vehicle dealers who may purchase only the line-makes for which they are franchised.

Section 10. Page 23, Line 7 - An auto auction must provide a bond in the amount of $25,000.

Page 23, Line 17 through 19 - A first-time applicant must pay a $500 fee. The license renewal fee is $100.

Page 24, Line 1 through 19 - Auto auctions may issue 72-hour permits to buyers for the purpose of transporting vehicles to a point of destination. A $10 fee must be paid to the department for each permit and the auto auction may recover the cost from the buyer.

Page 24, Beginning on Line 20 - Special license plates may be issued to auto auctions to transport vehicles to and from their place of business. The plates may be used for road testing, repairing and refurbishing. The license plates may be assigned to facilities with whom the auto auction contracts to service and repair vehicles consigned to the auction. The auto auction must report to the department the persons authorized to use the plates. The plates may not be used for personal purposes. The department may revoke an auto auction's permit and plate privileges for violation of this section.

Page 26, Beginning on Line 16 and ending on Page 27, Line 10 - An auto auction is not considered as an owner in the chain of ownership. They shall show their involvement in the sale by stamping their name and license number in the assignment section executed by the selling and buying dealer. If there is no place available for the stamp, a copy of the auction invoice may be attached to the title.

Page 27, Line 11 through 25 - The provisions for record retention are those mandated by the federal government.

Section 11. Lines 6 through 9 - A dealer who issues more than one permit per vehicle sale may have the permit privileges revoked for a period of time determined by the department.

Section 12. Page 28, Line 10 through 15 - Code Commissioner instructions to add "wholesalers" to relevant sections.

Section 13. Codification instructions.

ROLL CALL VOTE

SENATE COMMITTEE B & I

Date 2/21/91 Bill No. SB323 Time 10:00

NAME	YES	NO
WILLIAMS	X	
THAYER	X	
NOBLE	X	
HAGER	X	
GAGE	X	
FRANKLIN	X	
BRUSKI	X	
KENNEDY	X	
LYNCH	X	

D. ANDERSON
Secretary

JD LYNCH
Chairman

Motion: Kennedy TO AMEND

ROLL CALL VOTE

SENATE COMMITTEE B&I

Date 2/21/91 Bill No. SB323 Time 10

NAME	YES	NO
WILLIAMS		X
THAYER	X	
NOBLE	X	
HAGER	X	
GAGE	X	
FRANKLIN	X	
BRUSKI	X	
KENNEDY	X	
LYNCH	X	

D. ANDERSON
Secretary

JD LYNCH
Chairman

Motion: Thayer DO PASS AS AMENDED

SENATE STANDING COMMITTEE REPORT

February 21, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 323 (first reading copy -- white), respectfully report that Senate Bill No. 323 be amended and as so amended do pass:

1. Page 11, line 16.
Strike: "An"
Insert: "Except for recreational vehicle dealers, an"

2. Page 11, line 20.
Strike: "6"
Insert: "10"

3. Page 11, line 22.
Strike: "five"
Insert: "10"

Signed: _____
John "J.D." Lynch, Chairman

2-21-91
Bnd. Coord.

SP 2-21 9:45
Sec. of Senate

state parks. The bill sponsor does not intend this to be a state park funding bill. There is a need out there for clean drinking water for communities, for sewage treatment facilities, etc. Does the League of Cities and Towns feel that the loan money will help them or would hard dollars help them more than loans? **Alec Hansen** said if someone came to me and said I will give you $10.00, that would be the best possible option. The second best option is I'll loan you $10.00 and you don't have to pay me any interest. The third would be I'll loan you the $10.00 and when you pay me back I want $12.00. They support **REP. BRADLEY's** bill because low interest or no interest loans will definitely help the cities and towns finance some of the projects that desperately need doing. They also supported the Big Sky Dividend Program as originally proposed because it did provide for grants. Grants are also critically important because a lot of cities and towns out there are in desperate financial situations. There may be water or sewer projects and other types of improvements that will be extremely difficult to finance. In Montana it is a problem of demographics. In some places there is an extremely small population base. There are not enough consumers on municipal water or sewer systems to finance some of the mandates that will be coming down from Washington. Obviously, getting that interest cost down will help significantly. A direct cash grant would probably do more good, but low interest or none would be extremely beneficial.

Closing by Sponsor:

REP. BRADLEY explained some technical information. The determination reached on what the rate of interest should be is generally a calculation of the household income of a community and the user rates. Then a determination is made as to what kind of subsidy is appropriate. There is a whole range of things. The $20 million dollars limited to over a 5-year period only takes care of the very top priority parks. If all the parks were included in the same kind of improvement scheme, it would probably be more like $60 million. This is just a beginning. I wanted it to be something that had a beginning and an end, and not go on forever as a stream of revenue because it is for something specific and that is capital improvements. The state, as far as economic development goes, should not use this as a panacea. There seems to be an idea that grants are either good or bad and loans are good or bad and there is no middle ground. There are positive benefits to some and shortcomings to both. There is only $60 million to work with. It doesn't break it down to black or white, urban or rural, you can look at the grants that have been authorized for the water development projects; there are small communities throughout. They are highly represented there. Montana cares about all of its communities, not just its big cities. She welcomed suggestions from the Committee and the Sub-committee. There is room for more innovation and creativity.

HEARING ON SB 323

Presentation and Opening statement by Sponsor:

SEN. TOM BECK, SD 24, Deer Lodge, introduced SB 323 at the request of the Department of Justice, which, among other things, amends several Sections of Chapter 61.

Proponents' Testimony:

Daryll E. (Bud) Schoen, Chief Registrar's Bureau, Motor Vehicle Division, Department of Justice, said SB 323 will license certain automobile dealers, clean up language, clarify RV dealer license plates, up the amount of bond required from $5,000 to $25,000, and a number of other things. **EXHIBIT 10.**

Stuart Doggett, Montana Manufactured Housing and RV Association, supports this bill. It is a good clean up bill to clarify the assignment of RV dealer plates. The portion to increase bonding seems very reasonable.

Steve Turkiewicz, Montana Auto Dealers Association, supports this legislation. The changes in the licensing provisions are needed to provide a good quality product. The auto auction people sell up to 1,000 cars, and they support this type of regulatory action. These are things that are needed by our industry.

Questions by Committee Members:

REP. STELLA JEAN HANSEN asked how does an out-of-state buyer figure into this? Do they just get the 72-hour permit? **Mr. Schoen** said the $25,000 bond applies only to those who wish to become licensed as dealers or auto auctions in the state of Montana. She asked if a buyer had a dealership out of state, how would he get to the auction? **Mr. Schoen** said the 72-hour permit is for the out-of-state dealer to at least allow them to travel through the state.

REP. WALLIN asked what would be required of him if he wanted to have an auction? **Mr. Schoen** explained if you are a licensed dealer and you want to dispose of your inventory, you can hold an auction on your premises or even off premises. You would not be required to obtain an auction license.

REP. BENEDICT said the Senate left this bill intact except for some language on page 8, line 19, which has to do with the collection of the bond. What exactly did they do there? It looks like the original language required getting a judgment from the court prior to collecting on the bond from the Department. **Mr. Schoen** said the Justice Department still has the bond and would pay on the total amount of the bond. There is no reason the state should not require more than a $5,000 bond to be posted.

REP. MCCULLOCH asked how many wholesalers are in the state? **Mr. Schoen** said they estimate roughly 300; about 200 are licensed and about 150 are not legal. This bill has been discussed with

licensed and auto auction dealers.

REP. BACHINI stated last session a bill was passed where an individual could sell so many cars. Does this interfere with that bill passed last session? It did have a max in there, didn't it? **Mr. Schoen** said the only max he was aware of is if a used car dealer sells more than five vehicles they do not have to prepay that $300 application fee to get a permit.

REP. BACHINI thought the change on Page 11, line 24, would require new applicants to pay the $300 and a license fee of $30 if he has not sold more than five used cars. You have just stated he has to pay the $300 again. How did you come up with that? **Mr. Schoen** said the only reason they used five is because it was in the existing law for wholesalers. The purchase fee of $300 at the time of purchasing the dealers license is to prevent the dealer from selling without a license. It was set at $300 to recover taxes. If he sold less than five, he would have to pay the $300 again.

REP. TUNBY asked what the fee for a retail license was. **Mr. Schoen** replied at the present time it is $25 plus a $5 fee. **REP. TUNBY** said on Page 23, lines 17 through 19, referring to auto auctions, there is a $500 fee and renewal fee of $100. What have they done previous to this? **Mr. Schoen** advised previous to this a used car dealer could pay $25 plus the $5 fee for selling only used vehicles, not new vehicles, sold to retail companies. This bill would allow them to sell any type of vehicle, new or used. They have agreed with the $300 license. The difference is $30 in the present law and $500 in this.

REP. ELLIS asked if everyone who sells five vehicles or more has to be licensed then? How about other equipment such as trucks, etc.? Are they licensed under this bill also? **Mr. Schoen** said yes, they would be. One vehicle can be sold without a license.

REP. SCOTT asked how do you enforce a wholesaler selling to an individual and not a dealer? **Mr. Schoen** explained when the paperwork comes through his office at the Registrar's Bureau, there must be a chain of ownership. They know who is licensed and not licensed. If they come across an open title under this bill a citation could be issued to the seller of the car. That is built into this bill.

REP. McCULLOCH asked if this would prevent a person from buying a car from a wholesaler. **Mr. Schoen** said a wholesaler should not sell wholesale to an individual. It could be bought from him but he is not supposed to sell to you. He would be in violation. You would be in violation if you bought at wholesale price.

<u>Closing statement by Sponsor:</u>

SEN. BECK closed saying this has had a good hearing, and this is a good bill. It might put a little money in the general fund.

HEARING ON SB 433

Opening statement by Sponsor:

SEN. TOM BECK, SD 24, Deer Lodge, explained that there is a current statute that provides protection against coercion by manufacturers of motor vehicles. This bill will prohibit the use of coercion to obtain new motor vehicle dealers' participation in advertising campaigns or sales promotions; and amending Section 61-4-208, MCA. There has been a problem with manufacturer dealers requiring wholesale dealers to get involved in national advertising campaigns and contribute to contests and give-a-way programs. They should not be forced into paying for this type of forced advertising.

Proponents' Testimony:

Steve Turkiewicz, Executive Vice President, Montana Auto Dealers Association, explained the Association is under control of its member dealers and participation and contribution was at the discretion of each dealer, and they were charged with any advertising promotion schemes the dealers demanded. **EXHIBIT 11.**

Closing by Sponsor:

SEN. BECK said this is a good bill and asked for concurrence.

EXECUTIVE ACTION ON SB 433

Motion/Vote: **REP. PAVLOVICH moved SB 433 BE CONCURRED IN. Motion carried unanimously, with REP. SHEILA RICE** absent.

EXECUTIVE ACTION ON SB 323

Motion: **REP. WALLIN moved SB 323 BE CONCURRED IN.**

Discussion:

REP. SCOTT really doesn't think this is relative to the idea of open titles. The last person to sign it was the first owner of the car. They will never be able to figure that out. He doesn't like the increase in the bond requirement. It is pretty extreme.

REP. WALLIN said an open title is presently against the law. A $25,000 value for a car is not unusual; $5,000 is ridiculously low. If a title cannot be provided, a $25,000 bond would not be out of line with present auto values.

Vote: **Motion SB 323 BE CONCURRED IN CARRIED, with REPS. SCOTT and DOWELL voting No.**

REP. BACHINI said HB 905 bill will be put into a sub-committee on

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE March 13, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. JOE BARNETT	✓		
REP. STEVE BENEDICT	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. STELLA JEAN HANSEN	✓		
REP. H.S."SONNY" HANSON	✓		
REP. TOM KILPATRICK	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. BOB PAVLOVICH	✓		
REP. JOHN SCOTT	✓		
REP. DON STEPPLER	✓		
REP. ROLPH TUNBY	✓		
REP. NORM WALLIN	✓		
REP. SHEILA RICE, VICE-CHAIR	✓		
REP. BOB BACHINI, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 323 (third reading copy -- blue) be concurred in .

Signed: _____
Bob Bachini, Chairman

Carried by: Rep. Wallin

EXHIBIT 10
DATE 3/13/91
SB 323

SENATE BILL 323 - STATEMENT

PREPARED BY: DARYLL E. (BUD) SCHOEN, CHIEF
REGISTRAR'S BUREAU
MOTOR VEHICLE DIVISION
DEPARTMENT OF JUSTICE

Date: February 20, 1991

Section 1 Page 2, Lines 13 through 19 - A person would be required to obtain a dealers license if they allowed more than three vehicles, not titled in their name, to be displayed and offered for sale on their property, unless the property was leased to a licensed dealer. Reduce unlicensed sales on vacant lots.

Section 2 Page 3, Lines 8 through 23 - Cleans up language and provides for the licensing of wholesalers.

Page 3, Lines 24 and 25 and Page 4, Lines 1 through 7 - Provides that a person may not sell more than three motor vehicles per year that are not titled in the seller's name without being licensed as a motor vehicle dealer or as a wholesaler. Also, licensed wholesalers are restricted to the use of demonstrator plates and shall not be issued dealer plates.

Page 4, Lines 10 through 12 - Authorizes a representative of the department of justice to verify information contained in a dealer or wholesaler license application. Under the current statutes only the highway patrol can verify this information.

Page 6, Lines 3 and 4 - Provides for the use of "RV" plates for recreational vehicle dealers. "RV" dealers were authorized in 1985 but the statute was not amended to include the use of "RV" plates.

Page 6, Lines 7 and 8 - Authorizes the use of demonstrator plates by licensed wholesalers.

Page 6, Lines 15 through 23 - Requires a motor vehicle dealer to have a lot where vehicles are displayed and a building where records are kept. A wholesaler is not required to have a lot but must have a non-residential building or office where records are kept.

Page 7, Lines 7 through 14 - If two or more dealers or wholesalers share a location their records, office facilities and inventory must be kept separated. Each must display a sign readable from a minimum distance of 150 feet.

Section 2 **(continued)**

Page 8, Lines 1 through 11 - Increases the amount of a dealer bond from $5,000 to $25,000 for new vehicle dealers, used vehicle dealers and recreational vehicle dealers. The $25,000 bond also applies to trailer dealers who sell special mobile equipment, commercial trailers exceeding 6,000 GVW, mobile homes and house trailers. Trailer dealers who sell trailers not exceeding 6,000 GVW and motorcycle dealers shall file a bond in the amount of $10,000. Wholesalers of the same types of vehicles are also subject to the respective bond amounts.

Page 8, Subsection (b) beginning on Line 16 - Under current statutes a bond claimant who obtained a judgement against a dealer would collect the judgement from the state and the state would have to collect on the bond. The new language would enable the bond claimant to collect directly from the bonding company.

Section 3 Page 9, Line 14 through 16 - Added language that the department may refuse to issue a dealer or wholesaler license as allowed by law. Under current statutes it is questionable if the department can refuse a license even though an applicant may have been convicted of a previous motor vehicle related crime.

Page 10, Lines 11 through 25 - New language provides for the issuance of demonstrator plates to wholesalers which shall be distinguished from dealer demonstrator plates; and a license fee of $30 for wholesalers.

Page 11, Lines 12 through 23 - The new language allows a dealer to conduct off-premise sales 5 times a year by giving the department a 10-day notice. Sales are limited to 6 consecutive days. Current statutes do not allow off-premise sales.

Page 11, Beginning on Line 24 - New language in subsection (5) will require a <u>new</u> applicant for a wholesaler's license to pay $300 in addition to the license fee of $30. If the wholesaler has not sold more than 5 vehicles during the preceding year the $300 must be paid again to renew the wholesaler license.

Section 4 Page 15, Lines 5 and 6 - A wholesaler may sell vehicles only to licensed dealers. They cannot conduct retail sales.

Page 15, Line 25 and Page 16, Lines 1 through 4 - Wholesaler demonstrator plates shall be clearly marked to separate them from dealer plates.

Page 17, Lines 4 through 8 - Provides for clear violations of the dealer licensing laws which would be cause for revocation of a dealer or wholesaler license.

EXHIBIT 10
DATE 3/13/91
HB SB 323

Section 5 Page 18, Lines 15 through 24 - When a dealer or a wholesaler receives a title from a customer the name of the dealer or wholesaler must be entered in the purchaser's section of the assignment. When the dealer or wholesaler sells a vehicle, their customer's name must be entered in the assignment section of the title. All records must be kept on file in the building at the location where the dealer or wholesaler is licensed.

Section 6 Page 19, Beginning on Line 4 - Adds wholesalers and auto auctions to the penalty provisions for violations of the sections covering applications for a license, applying for and the use of dealer/demonstrator plates and keeping records.

Section 7 Page 20, Beginning on Line 1 - Adds wholesalers as a licensee required to file a change of ownership with the department.

Section 8 Page 20, Lines 20 through 25 - Increases the penalty for dealer permit violations and failure to provide titling documents from a minimum of $25 to $250 and a maximum from $100 to $500.

Section 9 Page 21, Beginning on Line 1 - Defines a wholesaler. A wholesaler may sell only to dealers and auto auctions.

Section 10 Page 21, Beginning on Line 10 - General regulations providing for the licensing of auto auctions and restricting sales to licensed dealers, wholesalers and wrecking facilities. Licensing procedures and regulations governing the conduct of the business are similar to those required of motor vehicle dealers. Notable exceptions are as follows:

Page 22, Beginning on Line 13 - An auto auction may offer for sale all types of vehicles. They may offer new vehicles for sale only when authorized by a manufacturer, importer or distributor who holds a Montana Manufacturer's License. New vehicles may be sold only to new motor vehicle dealers who may purchase only the line-makes for which they are franchised.

Page 23, Line 7 - An auto auction must provide a bond in the amount of $25,000.

Page 23, Line 17 through 19 - A first-time applicant must pay a $500 fee. The license renewal fee is $100.

Page 24, Line 1 through 19 - Auto auctions may issue 72-hour permits to buyers for the purpose of transporting vehicles to a point of destination. A $10 fee must be paid to the department for each permit and the auto auction may recover the cost from the buyer.

Section 10 (continued)

Page 24, Beginning on Line 20 - Special license plates may be issued to auto auctions to transport vehicles to and from their place of business. The plates may be used for road testing, repairing and refurbishing. The license plates may be assigned to facilities with whom the auto auction contracts to service and repair vehicles consigned to the auction. The auto auction must report to the department the persons authorized to use the plates. The plates may not be used for personal purposes. The department may revoke an auto auction's permit and plate privileges for violation of this section.

Page 26, Beginning on Line 16 and ending on Page 27, Line 10 - An auto auction is not considered as an owner in the chain of ownership. They shall show their involvement in the sale by stamping their name and license number in the assignment section executed by the selling and buying dealer. If there is no place available for the stamp, a copy of the auction invoice may be attached to the title.

Page 27, Line 11 through 25 - The provisions for record retention are those mandated by the federal government.

Section 11 Lines 6 through 9 - A dealer who issues more than one permit per vehicle sale may have the permit privileges revoked for a period of time determined by the department.

Section 12 Page 28, Line 10 through 15 - Code Commissioner instructions to add "wholesalers" to relevant sections.

Section 13 Codification instructions.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT **COMMITTEE** **BILL NO.** SB 323

DATE MARCH 13, 1991 **SPONSOR(S)** SEN. TOM BECK

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DARYLL (BUD) SCHEEN	DOJ- MV DIVISION	323		✓
Steve Turkiewicz	MT. Auto Dealer Assn	323		✓
~~MARGAR~~				
Stuart Doggett	MT Manufactured Housing + RV Association	323		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.